

AGREEMENT FOR THE PROVISION OF MILITARY ASSISTANCE DATED THIS 31 DAY OF JANUARY 1997 BETWEEN THE INDEPENDENT STATE OF PAPUA NEW GUINEA AND SANDLINE INTERNATIONAL

THIS Agreement is made this day of January 1997 between the Independent State of Papua New Guinea (the State) of the one part and Sandline International (Sandline), whose UK representative office is 535 Kings Road, London SW10 OS2, of the other part.

WHEREAS

Sandline is a company specialising in rendering military and security services of an operational, training and support nature, particularly in situations of internal conflict and only for and on behalf of recognised Governments, in accord with international doctrines and in conformance with the Geneva Convention.

The State, engulfed in a state of conflict with the illegal and unrecognised Bougainville Revolutionary Army (BRA), requires such external military expertise to support its Armed Forces in the protection of its Sovereign territory and regain control over important national assets, specifically the Panguna mine. In particular, Sandline is contracted to provide personnel and related services and equipment to:

- Train the State's Special Forces Unit (SFU) in tactical skills specific to the objective;
- gather intelligence to support effective deployment and operations;
- conduct offensive operations in Bougainville in conjunction with PNG defence forces to render the BRA military ineffective and repossess the Panguna mine; and
- provide follow-up operational support, to be further specified and agreed between the parties and is subject to separate service provision levels and fee negotiations.

IT IS THEREFORE AGREED AS FOLLOWS:

The State hereby agrees to contract and utilise and employ the services of Sandline to provide all required and necessary services as are more particularly described hereafter.

Duration and Continuation

The duration of this contract shall be effective from the date of receipt of the initial payment, as defined in paragraph 5.2 below, for a maximum initial period of three calendar months (the initial contract period) or achievement of the primary objective, being the rendering of the BRA militarily ineffective, whichever is the earlier. The State shall have the option of renewing this agreement either in part or in whole for further periods as may be required.

Notice of renewal, termination or proposed variation of this agreement is to be served on Sandline in writing by the State at least 45 days before the expiry of the current period. Non-communication by the State shall be regarded by Sandline as automatic renewal of the relevant parts of this agreement for a further three months period on the same terms and this precedent shall continue to apply thereafter.

Service Provision

Sandline shall provide the following manpower, equipment and services:

(a) A 16 man Command, Admin and Training Team (CATT), to deploy in PNG and establish home bases at Jackson Airport and the Jungle Training Centre at Wewac within one week of commencement of this agreement, which is deemed to be the date on which the initial payment relating thereto in accordance with paragraph 5.2 below is deposited free and clear in Sandline's nominated bank account. The role of the CATT is to (i) establish links with PNG defence forces, (ii) develop the requisite logistics and communications infrastructure, (iii) secure and prepare facilities for the arrival of the contracted equipment, including air assets, (iv) initiate intelligence gathering operations, and (v) commence SFU training.

(b) Further Special Forces personnel which will deploy to PNG within 10 days of the arrival of the CATT, together with helicopter and fixed wing aircrew and engineers, intelligence and equipment operatives, mission operators, ground tech and medical support personnel. This force will absorb the CATT as part of its number, therefore bringing the total Strike Force headcount to 70. This Strike Force shall be responsible for achieving the primary objective as specified in paragraph 1.1 of this agreement and the full complement will remain in country for the initial contract period as defined in the said paragraph.

Note: at no time will Sandline personnel enter the sovereign territory of another nation nor will they breach the laws and rules of engagement relating to armed conflict. Once the operation has been successfully concluded, Sandline personnel will be available to assist with the ongoing training, skills enhancement and equipping of the PNG defence forces.

(c) Weapons, ammunition and equipment, including helicopters and aircraft (servicable for up to 50 hours flying time per machine per month), and electronic warfare equipment and communications systems, all as specified or equivalent to the items listed in Schedule 1. Upon termination of a contractual relationship between the State and Sandline and once all payments have been received and Sandline has withdrawn from theatre any remaining stock of equipment shall be handed over and become the property of the State. Selected Sandline personnel will remain in country to maintain and supplement such equipment subject to a separate agreement relating thereto.

Note: delivery into theatre of the contracted equipment shall be via air into Jackson Airport or such other facility as may be considered appropriate. The equipment will be delivered in full working order in accordance with manufacturers' specifications. After its delivery, any equipment lost, damaged or destroyed during Sandline's deployment shall be immediately replaced at the cost of the State.

(d) personal kit, including US pattern jungle fatigues, boots and webbing, for Sandline personnel.

(e) All international Transport arrangements for the shipment in/out of equipment and deployment in country of Sandline personnel but not for the movement of such equipment and personnel within the country if this needs to be achieved by way of commercial service providers.

(f) The provision of medical personnel to treat any Sandline casualties and their evacuation if necessary.

(g) A Project Co-ordinator who, together with the Strike Force Commander and his Senior Intelligence officer, shall maintain liaison with and provide strategic and operational briefings and advice to the Prime Minister, Defence Minister, NEC, NSC, the commander of the PNG defence forces and his delegated officers as may from time-to-time be required or requested.

Sandline shall ensure the enrolment of all personnel involved in this contract as Special Constables and that they carry appropriate ID cards in order to legally undertake their assigned roles.

Responsibilities of Sandline

Sandline will train the SFU in tactical skills specific to the objective, such as live fire contact, ambush techniques and raiding drills, gather intelligence to support effective deployment and plan, direct, participate in and conduct such ground, air and sea operations which are required to achieve the primary objective.

Both parties hereto recognise and agree that the force capability to respond to all emergency and hostile situations will be constrained by the manpower and equipment level provided within the terms of this agreement. The achievement of the primary objective cannot be deemed to be a performance measure for the sake of this agreement if it can be demonstrated that for valid reasons it cannot be achieved within the given timescale and with the level of contracted resources provided.

Sandline shall supply all the personnel and maintain all services and equipment as specified in paragraph 2.1 above to the appropriate standards of proficiency and operational levels as is generally expected from a high calibre, professional armed force.

Sandline shall further provide a project co-ordinator to act as the liaison officer between the company's management and the nominated representatives of the State. This individual will convene and attend regular meetings at such venues as he may be so directed.

Sandline shall be responsible for any expense resulting from the loss or injury of any of its personnel for the duration of the agreement unless same is caused by the negligence of the State, its personnel or agents in which case all such costs will be fairly claimed against the State by Sandline and promptly paid for the benefit of the persons involved.

Sandline will ensure that the contents of this agreement shall remain strictly confidential and will not be disclosed to any third party. Sandline will not acknowledge the existence of this contract prior to the State issuing notifications in accordance with paragraph 4.11 below and will not take credit for any successful action unless this is mutually agreed by the parties. Furthermore, Sandline and its personnel are well versed in the requirement to maintain absolute secrecy with regard to all aspects of its activities in order to guard against compromising operations and will apply the necessary safeguards.

Responsibilities of the State

Immediately on signing this agreement the State automatically grants to Sandline and its personnel all approvals, permissions, authorisations, licences and permits to carry arms, conduct its operations and meet its contractual obligations without hindrance, including issuing instructions to PNG defence forces personnel to co-operate fully with Sandline commanders and their nominated representatives. All officers and personnel of Sandline assigned to this contract shall be enrolled as Special Constables, but hold military ranks commensurate with those they hold within the Sandline command structure and shall be entitled to given orders to junior ranks as may be necessary for the execution of their duties and responsibilities.

The State will ensure that full co-operation is provided from within its organisation and that of the PNG defence

forces. The Commanders of the PNG defence forces and Sandline shall form a joint liaison and planning team for the duration of this agreement. The operational deployment of Sandline personnel and equipment is to be jointly determined by the Commander, PNG defence forces and Sandline's commander, taking account of their assessment of the risk and value thereof.

The State recognises that Sandline's commanders will have such powers as are required to efficiently and effectively undertaken their given roles, including but not limited to the powers to engage and fight hostile forces, repel attacks therefrom, arrest any persons suspected of undertaking or conspiring to undertake a harmful act, secure Sovereign assets and territory, defend the general population from any threat, and proactively protect their own and State Forces from any form of aggression or threat. The State agrees to indemnify Sandline for the legitimate actions of the company's and its associates' personnel as specified herein and to assume any claims brought against the company arising out of this agreement.

The State shall pay or shall cause to be paid the fees and expenses relating to this agreement as set out in paragraph 5.1 below. Such fees and expenses to be paid as further specified in paragraph 5.2, without deduction of any taxes, charges or fees, and eligible to be freely exported from PNG. All payments to be made in US Dollars.

The State shall cause all importation of equipment and the provision of services to be free to Sandline (and any of its sister or associated companies as notified to the authorities) of any local, regional or national taxes, withholding taxes, duties, fees, surcharges, storage charges and clearance expenses howsoever levied and shall allow such equipment to be processed through Customs without delay. Further, all Sandline personnel will be furnished with the necessary multiple entry visas without passport stamps and authorisation to enter and leave the country free from hindrance at any time and shall be exempt from tax of any form on their remuneration from Sandline.

The State will promptly supply at no cost to Sandline and its sister and associated companies all End User Certificates and related documentation to facilitate the legitimate procurement and export of the specified equipment from countries of origin.

4.7 The State will provide suitable accommodation for all Sandline personnel together with all related amenities, support staff to undertake role such as messengers and household duties, secure hangerage and storage facilities for equipment, qualified tradesmen and workmen to clear and prepare operating sites, all aviation and ground equipment fuel and lubricant needs, such vehicles and personnel carriers as reasonably specified for the field and for staff use, footstuffs and combat rations, fresh drinking water, and sanitary and other relevant services and ancillary equipment as Sandline may specify from time-to-time to undertake its activities without hindrance.

If any service, resource or equipment to be supplied by the State in accordance with paragraph 4.7 above is not forthcoming then Sandline will have the right to submit an additional invoice for the procurement and supply thereof and may curtail or reduce operations affected by its non-availability until payment has been made and the said equipment is in position.

The State agrees and undertakes that, during the period of this agreement and for a period of 12 months following the date of its expiration, it will not directly or indirectly offer employment to or employ any of the personnel provided hereunder or otherwise in the employ of Sandline and its associates. Any such employment will be constructed as a continuation of the contract for the employees concerned and Sandline shall be entitled to be paid accordingly on a pro-rata basis.

The State and the PNG defence forces will ensure that information relating to planned operations, deployments and associated activities is restricted to only those personnel who have an essential need to be briefed in. Appropriate steps will be taken to prevent press reporting, both nationally and internationally, or any form of security breach or passage of information which may potentially threaten operational effectiveness and/or risk the lives of the persons involved. Sandline's commanders have the right to curtail any or all planned operations which they determine are compromised as a result of failure in security.

If deemed necessary due to external interest, the State shall be responsible for notifying and updating the International Community, including the United Nations and representatives of other Governments, at the appropriate time of the nature of this contract and the underlying intent to protect and keep safe from harm Papua New Guinea's Sovereign territory, its population, mineral assets and investing community. The content and timing of all such formal communications will be discussed and agreed with Sandline before release.

Fees and Payments

Sandline's inclusive fee for the provision of the personnel and services as specified in paragraph 2.1 above and also in Schedule 1 attached for the initial contract period is USD36,000,000 (thirty six million US Dollars).

Payment terms are as follows. All payments to be by way of cash funds, either in the form of electronic bank transfers or certified banker's cheques.

On contract signing 50 per cent of the overall fee, totalling USD18,000,000 is immediately due and is deemed the "initial payment".

Within 30 days of deploying the CATT, the balance of USD18,000,000.

This contract is deemed to be enacted once the initial payment is received in full with value into such bank account as Sandline may nominate therefor. Payments are recognised as being received when they are credited as cleared funds in our account and payment receipt relies on this definition.

All fees for services rendered shall be paid in advance of the period to which they relate. Sandline reserves the right to withdraw from theatre in the event of non-payment of fees for any renewal to the original contract period.

The financial impact of variations, additions or charges to the personnel provision and equipment supply specified herein will be agreed between the parties and any incremental payment will be made to Sandline before such change is deemed to take effect. There is no facility for rebate or refund in the event of a required reduction or early termination of service delivery within a given contract period.

Applicable Law

In the event of any dispute or difference arising out of or in relation to this agreement the parties shall in the first instance make an effort to resolve it amicably, taking account of the sensitive nature of this arrangement.

The aggrieved party shall notify the other by sending a notice of dispute in writing and, where amicable settlement is not possible within 30 days thereafter, refer the matter to arbitration in conformity with the UNCITRAL rules applying thereto.

This agreement shall be construed and governed in accordance with the Laws of England and the language of communication between the parties shall be English.

Amendments and Supplements

This agreement may only be altered, modified or amended by the parties hereto provided that such alteration, modification or amendment is in writing and signed by both parties.

Schedule 1 ("Oyster" Costings) forms part of this agreement.

IN WITNESS WHEREOF the parties hereto have set their hands on the day and year first written above.

For the Independent State of Papua New Guinea:

Name: Chris S Haiveta

Witness: (indecipherable)

Name: Vele Iamo

Occupation: A/Deputy Secretary

For Sandline International:

Name: Tim Spicer OBE.

Witness: (indecipherable)

Name: J.N. Van Den Bergh

Occupation: Consultant